

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10cv148-RJC-DSC**

**DANITA MITCHELL**

**Plaintiff,**

**v.**

**DEAN P. LOVEN, JUDGE LISA BELL, FELICIA )  
H. MCADOO, CHIEF DEPUTY SHERIFF, AND )  
DANIEL BAILEY, SHERIFF )**

**Defendants.**

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**ORDER**

**THIS MATTER** is before the Court on the Magistrate Judge’s Memorandum and Recommendations (“M&R”) (Doc. No. 28), filed September 1st, 2010, and Plaintiff’s Motion for Extension of Time to File Objections, filed October 4th, 2010 (Doc. No. 29).

**I. BACKGROUND**

Neither party has objected to the Magistrate Judge’s statement of the factual and procedural background of this case, and the Court thus adopts the facts as set forth in the M&R.

**II. STANDARD OF REVIEW**

The Federal Magistrate Act provides that “a district court shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). “By contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory

committee's note). Similarly, de novo review is not required by the statute "when a party makes general or conclusory objections that do not direct the court to a specific error in the magistrate judge's proposed findings and recommendations." Id. Moreover, the statute does not on its face require any review at all of issues that are not the subject of an objection. Thomas v. Arn, 474 U.S. 140, 149 (1985); Camby, 718 F.2d at 200. Nonetheless, a district judge is responsible for the final determination and outcome of the case, and accordingly the Court has conducted a careful review of the Magistrate Judge's M&R.

### **III. DISCUSSION**

Federal Rule of Civil Procedure 72(b) allows a party 14 days to file specific written objections to a Magistrate Judge's proposed findings and recommendations. Fed. R. Civ. P. 72(b)(2). Here, the parties received a copy of the M&R informing them of the 14-day objection deadline, which further stated: "Failure to file objections to this Memorandum with the Court constitutes a waiver of the right to de novo review by the District Judge." (Doc. No. 28 at 8). Although objections to the M&R were due on September 20, 2010, the Plaintiff failed to file any objections and did not move for an extension of time until after the deadline had passed. See (Doc. No. 29). As a result, this Court reviews the M&R for clear error. After a careful review of the record in this case, this Court finds that the Magistrate Judge's recommendation is consistent with and supported by the law. Thus, the M&R is hereby adopted as the final decision of this Court for all purposes in this case.

### **IV. CONCLUSION**

**IT IS HEREBY ORDERED** that:

1. The defendants' respective Motions to Dismiss (Doc. Nos. 15, 17, and 20) are **GRANTED** and the Complaint is **DISMISSED** for lack of subject-matter jurisdiction.

2. Plaintiff's Motion for Extension of Time to File Objections (Doc. No. 29) is **DENIED AS MOOT.**
3. Plaintiff's Motion to Strike Contempt Orders, Motion to Recuse Char-Meck Judge Richard Boner, and Motion for Mistrial (Doc. No. 14) is **DENIED.**

**SO ORDERED.**

Signed: October 7, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

